

FACTSHEET

TITLE: **USE PERMIT NO. 133, West Van Dorn Plaza**, requested by Stockwell Properties, LLC, and R.C. Krueger Development Company, for authority to develop approximately 40,000 sq. ft. of office and commercial floor area, with associated waiver requests, on property generally located northeast, southeast and southwest of the intersection of West Van Dorn Street and South Coddington Avenue.

STAFF RECOMMENDATION: Conditional Approval

ASSOCIATED REQUESTS: Annexation 01008 (05-54); Annexation Agreement (05R-99); Change of Zone No. 3419 (05-55); and Declaration of Surplus Property (05-56).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 08/18/04
Administrative Action: 08/18/04

RECOMMENDATION: Conditional Approval, with amendments (7-1: Marvin, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand voting 'yes'; Pearson voting 'no'; Larson absent).

FINDINGS:

1. This use permit request and the associated Annexation No. 01008, Change of Zone No. 3419 and proposed declaration of surplus property (Comprehensive Plan Conformance No. 04006) were heard at the same time before the Planning Commission.
2. The applicant requested waivers of the preliminary plat process; front and side yard setbacks; paving, curb and gutter and sidewalks along South Coddington Avenue and West Van Dorn Street; the requirement that all lots have frontage and access to a public street or private roadway; minimum lot frontage required for a ground sign; signs in the front yard; signs more than 30' from a building; street trees along South Coddington Avenue and West Van Dorn Street; landscaping in required yards, malls and open spaces in the B-2 district; and to allow parking in the front yard.
3. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.5-9, concluding that several of the waivers are not appropriate, and the site plan can be revised to eliminate the need for them. Subject to the conditions of approval, this Use Permit is in compliance with the Zoning Ordinance and consistent with the Comprehensive Plan.
4. The testimony of DaNay Kalkowski on behalf of Stockwell Properties, LLC, is found on p.10-11. Ms. Kalkowski submitted proposed amendments to the conditions of approval (p.28-32), to which the staff agreed:
 - ▶ Delete Condition #1.1.3 to keep the parking in the front yard.
 - ▶ Strike "South Coddington Avenue" from Condition #1.1.6.
 - ▶ Revise Condition #1.1.8: ~~No signs in the front yard.~~ Remove sign envelopes and revise Note 26 to state "All signs shall be in compliance with Chapter 27.69 of the LMC, except signage may be located more than 30 feet from pad site buildings."
 - ▶ Add language to Condition #2.4 to allow parking in the front yard.
 - ▶ Add language to Condition #3.2: "... except sidewalks along South Coddington Avenue and West Van Dorn Street, provided the owner has contributed an amount equivalent to the cost of installing said sidewalks along South Coddington Avenue and West Van Dorn Street to the City."
 - ▶ Add language to Condition #3.2 regarding street tree provisions that go into the subdivision agreement at time of final plat: "...except street trees along south Coddington Avenue and West Van Dorn Street, provided the owner has contributed an amount equivalent to the cost of installing said street trees along South Coddington Avenue and West Van Dorn Street to the City."
5. The testimony by Brian Carstens on behalf of Krueger Development is found on p.16.
6. Testimony in opposition by Lynn Darling is found on p.16, with concerns about the development of a strip mall as opposed to the quiet, small architecture office building promised by Don Linscott several years ago, specifically, more traffic along West Van Dorn; negation of the tranquility of the bike path; water drainage; and insufficient landscaping. The record also consists of a letter in opposition (p.33-34). The applicant's response to the testimony in opposition is found on p.18.
7. On August 18, 2004, the majority of the Planning Commission agreed with the staff recommendation and voted 7-1 to recommend conditional approval, with the amendments requested by the applicant and agreed upon by staff (Pearson dissenting; Larson absent). Pearson expressed concern about the landscape screening versus natural landscaping and the environmental issues (See Minutes, p.19).
8. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied and the revised site plans are attached (p.22-23).

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 18, 2004 PLANNING COMMISSION MEETING

****As Amended and Recommended for Approval
by the Planning Commission on August 18, 2004****

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application. Additionally, there are portions of the area included in the use permit on either side of West Van Dorn Street, and are called 'North' and 'South' throughout the report for reference.

P.A.S.:

Annexation #01008

Change of Zone #3419

Use Permit #133 - West Van Dorn Plaza/Lee's Place

PROPOSAL:

To annex approximately five acres of land with a change of zone to B-2 to allow approximately 40,000 square feet of office and commercial floor by use permit.

LOCATION:

Northeast, southeast, and southwest of the intersection of West Van Dorn Street and South Coddington Avenue.

WAIVER REQUESTS:

1. The preliminary plat process.
2. Front and side yard setbacks from 50' to 0'.
3. Paving, curb and gutter and sidewalks along South Coddington Avenue and West Van Dorn Street.
4. The requirement that all lots have frontage and access to a public street or private roadway.
5. Minimum lot frontage required for a ground sign.
6. Signs in the front yard.
7. Signs more than 30' from a building.
8. Street trees along South Coddington Avenue and West Van Dorn Street.
9. Landscaping in required yards, malls and open spaces in the B-2 district.
10. Allow parking in the front yard.

LAND AREA:

Annexation #01008 - Approximately 5 acres.

Change of Zone #3419 - Approximately 11.5 acres.

Use Permit #133 - Approximately 6.7 acres.

CONCLUSION:

Several of the waivers are not appropriate, and the site plan can be revised to eliminate the need for them. Subject to the conditions of approval, these requests comply with the Zoning Ordinance and are consistent with the Comprehensive Plan.

RECOMMENDATION:

Use Permit #133

Conditional Approval

Waivers:

- | | | |
|-----|---|----------|
| 1. | The preliminary plat process. | Approval |
| 2. | Front and rear yard setbacks from 50' to 25'. | Approval |
| 3. | Paving, curb and gutter and sidewalks
along South Coddington Avenue and
West Van Dorn Street. | Denial |
| 4. | The requirement that all lots have frontage
and access to a public street or private roadway. | Approval |
| 5. | Minimum lot frontage required for a ground sign. | Approval |
| 6. | Signs in the front yard. | Denial |
| 7. | Signs more than 30' from a building. | Approval |
| 8. | Street trees along South Coddington Avenue
and West Van Dorn Street. | Denial |
| 9. | Landscaping in required yards, malls and
open spaces in the B-2 district. | Denial |
| 10. | Allow parking in the front yard. | Approval |

GENERAL INFORMATION:

LEGAL DESCRIPTION:

Use Permit #133 - Property legally described as Outlot A, Lee's Place 3rd Addition, in the SE 1/4 of Section 33-10-6; and Lot 36 and a portion of Lot 40, both located in the NE 1/4 of Section 4-9-6, Lancaster County, Nebraska, generally located at South Coddington Avenue and West Van Dorn Street. **The metes and bounds description for a portion of Lot 40 is attached.**

EXISTING ZONING: AG Agriculture, AGR Agricultural Residential, R-3 Residential, and B-1 Local Business.

EXISTING LAND USE: The property is undeveloped with the exceptions of restaurants at both the northeast (Lee's) and southwest (ice cream drive-in) corners of the intersection.

SURROUNDING LAND USE AND ZONING:

North:	Residential	R-3
South:	Agriculture	AG

East:	Residential, Agriculture	R-3, AG
West:	Residential	AGR, R-3

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F20 - Community Form - Transition of uses, less intense uses near residential areas.

Page F23 - Land Use Plan - This site is designated for commercial uses in the Land Use Plan.

Page F38 - General Principles for Commercial Uses - Commercial and industrial districts in Lancaster County shall be located:

*Within the City of Lincoln or incorporated villages.

*Outside of saline wetlands, signature habitat areas, native prairie and floodplain areas (except for areas of existing commercial and industrial zoning).

*Where urban services and infrastructure are available or planned for in the near term.

in sites supported by adequate road capacity commercial development should be linked to the implementation of the transportation plan.

*In areas compatible with existing or planned residential uses in areas accessible by various modes of transportation (i.e. automobile, transit and pedestrian) so that they enhance entryways or public way corridors, when developing adjacent to these corridors.

*In a manner that supports the creation and maintenance of green space as indicated in the environmental resources section of this plan.

Page F53 - Core Resource Imperatives - Wetlands provide distinctive habitat opportunities for various plants and animals, as well as offering flood control and water filtration benefits.

TRAFFIC ANALYSIS: South Coddington Avenue is identified as a principal arterial street. West Van Dorn is identified as a principal arterial street east of the intersection, and as a minor arterial to the west. Where the major arterial designation applies, future improvements include four lanes with center turn lanes; the minor arterial designation will be two lanes with a center lane. These future improvements are impact fee facilities, and this development will be subject to impact fees at the time of building permits. The cost of temporary improvements including turn lanes in both streets will be the responsibility of the developer.

ENVIRONMENTAL CONCERNS: Protection of the wetlands on the south.

AESTHETIC CONSIDERATIONS: While commercial zoning has existed at this corner for many years, the area is considered a newly developing area. There has been significant residential development over the past several years, and it is anticipated that new development will continue to occur. B-2 zoning applied to this intersection will help ensure that future development, as well as the redevelopment of existing commercial properties, is done in a manner and at a scale that is compatible with the neighborhood.

TOPOGRAPHY:	North:	Slopes upward, from south to north.
	South:	Increases in elevation from north to south, with wetlands in a depression on the northern portion of the site.

HISTORY: CZ#3253 was submitted by Krueger Development and Stockwell Properties on 4/20/2000 to change the zoning from R-3 to B-2 for the southeast corner of the use permit site. It was placed on pending by the Planning Commission on 4/3/02.

CZ#3247 was submitted by the Planning Department on 2/29/00 and included those areas of CZ#3196 with additional areas zoned AGR and R-3 all to be zoned B-2. It was placed on pending at the at City Council on 3/5/01.

CZ#3196 was submitted by the Planning Department 6/24/99 and proposed changing the areas zoned B-1 and a portion of R-3 on the north side of West Van Dorn to B-2. It was placed on pending at city Council on 3/5/01.

CZ#3195 was submitted by Krueger Development and Stockwell Properties on 6/22/99, and proposed changing the north portion of UP#133 from R-3 to B-2. This application was placed on pending by the Planning Commission on 4/3/02.

BACKGROUND

The existing commercial zoning pattern dates back to at least 1953, and it appears that the commercial zoning (G - Local Business) was originally established with 250' by 250' squares on all four corners of the intersection. However, the 250' by 250' foot area doesn't match either the land use or ownership pattern on any corner. By the 1970's, the northwest corner was changed from commercial to residential and has since been developed residentially. With the 1979 zoning update, the remaining commercial property was converted from G to B-1.

ANALYSIS:

1. As noted in the history, several zone change applications have been initiated for this site. In the staff report for CZ#3196, staff suggested that the zoning needed to be updated to better reflect the ownership pattern in this area, and to provide the appropriate zoning for a developing part of the city. It was also in response to recent actions in the area:
 - Lee's Place subdivision and annexation, which has brought residential uses near the intersection of South Coddington Avenue and West Van Dorn Street.
 - Vestecka's Villa Van Dorn subdivision and annexation which brought residential uses closer to I-1 zoning east of the Burlington Northern railroad tracks, north of West Van Dorn Street.
 - Development of the Bison Trail leading from Wilderness Park to Pioneers Park south of West Van Dorn Street and the purchase of the southeast corner of B-1 zoning by Stockwell Properties LLC from the State of Nebraska.
2. CZ#3247 was requested by Michael Rierden on behalf of the property owner Clarice Loomis. Ms. Loomis owns three small lots on the southwest corner of South Coddington Avenue and West Van Dorn Street where she owns a house, outbuildings, and one commercial business. The three lots are zoned R-3, AGR and B-1. As noted previously, the zoning line was arbitrarily established in 250' by 250' squares decades ago and did not respect existing lot lines or the ownership pattern. Thus each lot has two or three different zoning classifications, and in the case of the southwest corner, the zoning boundary extends

through the middle of existing buildings. CZ#3247 expanded the boundary of CZ#3196 to include all parcels owned by Ms. Loomis.

3. The proposed use permit site plan has undergone several revisions over the past few years in response to issues by raised by staff, including wetlands protection, driveway alignment, and connection to the trail system. The most recent change is the addition of a 1.5 acre parcel at the southeast corner of the site. Inclusion of this parcel allows the driveway on the south side of West Van Dorn Street to be aligned with the existing driveway on the north that serves Lee's Restaurant. This parcel is part of a larger tract owned by the City, and must be declared surplus before it can be sold. The Parks and Recreation Department has initiated an application to declare the property surplus tentatively scheduled for the September 15, 2004 Planning Commission agenda.
4. This new request, CZ#3419, was initiated by the Parks and Recreation Department to change the zoning on the 1.5 parcel proposed to be declared as surplus. After review, staff is recommending that the application be revised to include all areas of the four pending change of zone applications so that the zoning can be completed by a single ordinance instead of five. The pending applications must then be withdrawn their respective applicants.
5. The following is a comparison of requirements between the B-1 and B-2 districts:

	B-1	B-2
Use Permit Required	No	Yes
Major Commercial Uses allowed "by right"	-Banks, -Restaurants -Service Stations, -Retail sales, excluding auto sales - Office buildings	-Banks -Restaurants -Service stations -Retail sales, excluding auto sales -Office buildings -On/off premise alcohol sales
Major Commercial "Conditional" Uses	-Auto wash -Motels&Hotels -Early childhood care facilities -Contractor sales and showroom	-Auto wash -Motels&Hotels -Early childhood care facilities
Major Special Permitted Uses	-Health Care Facilities -On/off premise alcohol sales	-Health Care Facilities
Setbacks: Front Rear Side	20' 30' or 20% of depth 0 (10' if abutting residential)	50' 0 (50' abutting residential) 0 (20' abutting residential)
Setback adjustable by Council?	No	Yes, under use permit
Parking allowed in front yard?	Yes	No
Parking allowed in rear yard?	Yes	Yes
Off Premise Signs (Billboards)	Area: 300 S. F. Height 35'	Not permitted
On Premise Pole Signs	Area: 150 S. F. Height 35'	Area: 100 S. F. Height 25'

6. B-2 allows generally the same range of uses as B-1, but all development is subject to a use permit and the City is afforded site plan review authority. The B-2 district has greater setbacks, but the City Council has the flexibility to adjust the setbacks depending upon the circumstances. While off-premise signs are allowed in B-1, this site is in a capitol view corridor where such signs are prohibited by the Zoning Ordinance.
7. The B-2 zoning is consistent with the character of the recent development in this neighborhood. This area is no longer remote from the city limits; it includes subdivisions with over 250 dwelling units on the north side of West Van Dorn Street. The B-2 zoning is appropriate in developing areas, and is also the zoning adopted for the shopping center at South Coddington Avenue and West A Street.
8. The change from B-1 to B-2 will not have a significant impact on the existing commercial uses. Both restaurants are permitted uses in the B-2 district, and while they don't meet the requirements of B-2 district they would be grandfathered as pre-existing uses and can continue to exist as they are. If the properties are redeveloped, they would have to meet the B-2 requirements or request setback reductions through the use permit process.
9. The proposed change of zone actually expands the amount of commercial zoning at all three corners, thereby increasing flexibility in site layout at the time of redevelopment.
10. Several waivers have been requested relative to the use permit. Staff recommends the following:
 - A. The waiver to the preliminary plat process is appropriate as all necessary information has been submitted with the use permit.
 - B. Front and rear setback reductions - This waiver only affects the north portion, and reduces the front and rear setbacks from 50' to 25'. The reduced perimeter setback is offset by screening/landscaping and limits the land use to office only.
 - C. Improvements to South Coddington Avenue and West Van Dorn - These improvements are impact fee facilities and therefore the City's responsibility to improve, except for sidewalks which are the developer's responsibility. It should be noted in the annexation agreement that the developer will post a surety adequate to install the required sidewalks. Any required temporary street improvements to accommodate the development, such as turning lanes, will also be the developer's responsibility.

D. Requirement for street frontage - Lots within commercial developments are allowed to take access to private roadways when approved as part of a use permit. A private roadway is shown on the north. Public Works must approve the utilities in the driveway on the south.

Regarding the next three waivers and the signs in general, the total sign package can be approved as part of the use permit, and the requirements can be modified by City Council where appropriate. Unfortunately, this application does not include a sign package for this development, and it is difficult to evaluate the waiver requests lacking that context. Depending upon the circumstances and the package presented, one or more of these waivers may be appropriate.

E. Minimum lot frontage for a sign - One on-premise pole or ground sign is allowed per street frontage provided the frontage exceeds 300'. This request only applies to the north portion of the use permit, where the unique shape of the site justifies this waiver.

F. Signs in the front yard - The one allowed on-premise pole or ground sign per street frontage may be located in the front yard in the B-2. However, there are no unique circumstances regarding this site to support allowing any additional signs in the front yard beyond what is allowed by the Zoning Ordinance.

G. Signs more than 30' from a building - This requirement exists to prohibit all the allowed signs from being clustered in one location on a site. However, that is not a concern with the proposed building layout shown and this request is appropriate.

H. Street trees - While there are many trees on site now, most if not all of them will be removed when the streets are improved. At that time, the street trees will become necessary and this requirement should not be waived.

I. Required landscaping in the B2 district - There is adequate area to provide the landscaping on site, which is integral to the B-2 district, and this waiver should not be approved.

J. Parking in the front yard - this affects only the south portion, where it portions of the parking lots are shown on the front along South Coddington Avenue and Southwest 19th Street. Given the width of the right-of-way along South Coddington Avenue (130'), and the parking lot along Southwest 19th Street only encroaches 2', this request is appropriate.

11. The Bison Trail portion of the City's bike trail system extends from West Van Dorn to the Pioneers Park south of this site. The Comprehensive Plan shows a connection to the trail extending north along South Coddington Avenue past this site. The Parks and Recreation Department notes that the site plan must be amended to show an easement for the trail on the east side of South Coddington Avenue.

12. The Airport Zoning Regulations of the Zoning Ordinance were recently amended, and this site falls within Airport Environs District. All prospective purchasers and users must be informed that the land is located within the Airport Environs Noise District, that the land is subject to an aviation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels high which may affect users of the property and interfere with its unrestricted use.
13. The Public Works and Utilities' review was not complete at the time of printing of this report. Those comments will be forwarded to the applicant when available.

CONDITIONS:

Use Permit #133

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
 - 1.1 Revise the plans to show:
 - 1.1.1 All required street trees including along Southwest 19th Street.
 - 1.1.2 Add a general note that states "ALL REQUIRED LANDSCAPING FOR INDIVIDUAL LOTS WILL BE REVIEWED AT TIME OF BUILDING PERMITS. ALL LANDSCAPING WILL BE PROVIDED IN COMPLIANCE WITH CITY OF LINCOLN DESIGN STANDARDS."
 - ~~1.1.3~~ ~~Parking relocated out the front yard.~~ (****Per Planning Commission at the request of the applicant and agreed upon by staff, 08/18/04****)
 - 1.1.4 Show the bike trail along South Coddington Avenue.
 - 1.1.5 Add a general note stating "The grant of an aviation and noise easement to the Lincoln Airport Authority is a condition of approval for this use permit as all or part of the land is located within the Airport Environs Noise District and potentially subjects the land to aircraft noise levels high enough to annoy uses of the property and interfere with its unrestricted use."
 - 1.1.6 Show sidewalks along ~~South Coddington Avenue~~, West Van Dorn Street, and Southwest 19th Street. (****Per Planning Commission, at the request of the applicant and agreed upon by staff, 8/18/04****)
 - 1.1.7 Show the future sidewalk connection to the Bison Trail extended to the south boundary of the use permit.

1.1.8 ~~No signs in the front yard. Remove sign envelopes and revise Note 26 to state, "All signs shall be in compliance with Chapter 27.69 of the L.M.C., except signage may be located more than 30 feet from pad site buildings."~~
(Per Planning Commission, at the request of the applicant and agreed upon by staff, 8/18/04**)**

1.1.9 All required landscaping per the Design Standards.

1.2 A revised water plan must be submitted and approved by Public Works.

1.3 Provide utility easements per the LES 8/2/04 review.

1.4 Make corrections per the Public Works and Utilities review.

2. The City Council approves associated request:

2.1 Annexation #01008

2.2 Change of Zone #3419

2.3 Declaration of Surplus property for a portion of Lot 40.

2.4 A modification to the requirements of the land subdivision and zoning ordinance to waive the preliminary plat process, front and rear setbacks from 50' to 25' for that portion north of West Van Dorn Street, frontage to a street or private roadway, minimum frontage for a ground sign, ~~and a sign~~ located more than 30' from a building, ~~and parking in the front yard.~~ **(**Per Planning Commission, at the request of the applicant and agreed upon by staff, 8/18/04**)**

General:

3. Final Plats will be approved by the Planning Director after:

3.1 You have completed or posted a surety to guarantee the completion of the private roadway improvements, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainage way improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs.

3.2 The owner signs a subdivision agreement that requires the owner:

to complete the street paving of Southwest 19th Street within two (2) years following the approval of this final plat.

to complete the installation of sidewalks within four (4) years following the approval of this final plat, except sidewalks along South Coddington Avenue and West Van Dorn Street, provided the owner has contributed an amount equivalent to the cost of installing said sidewalks along South Coddington Avenue and West Van Dorn Street to the City. **(**Per Planning Commission, at the request of the applicant and agreed upon by staff, 8/18/04**)**

to complete the public water distribution system within two (2) years following the approval of this final plat.

to complete the public wastewater collection system within two (2) years following the approval of this final plat.

to complete the enclosed public drainage facilities within two (2) years following the approval of this final plat.

to complete the enclosed private drainage facilities within two (2) years following the approval of this final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat.

to complete the installation of public street lights within two (2) years following the approval of this final plat.

to complete the planting of the street trees within four (4) years following the approval of this final plat, except street trees along South Coddington Avenue and West Van Dorn Street, provided the owner has contributed an amount equivalent to the cost of installing said street trees along South Coddington Avenue and West Van Dorn Street to the City. **(**Per Planning Commission, at the request of the applicant and agreed upon by staff, 8/18/04**)**

to complete the planting of the landscape screen two (2) years following the approval of this final plat.

to complete the installation of the street name signs within two (2) years following the approval of this final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to complete the public and private improvements shown on Use Permit #133.

to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

to continuously and regularly maintain the landscape screens.

to submit to the lot buyers a copy of the soil analysis.

to pay all design, engineering, labor, material, inspection, and other improvement costs except paving, curb and gutter in South Coddington Avenue and West Van Dorn Street.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to protect the trees that are indicated to remain during construction and development.

to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.

to relinquish the right of direct vehicular access from West Van Dorn Street, South Coddington Avenue, and Southwest 19th Street except as shown on Use Permit #133.

to inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an aviation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels high enough which may affect users of the property and interfere with its unrestricted use.

Standard:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying the buildings units all development and construction shall have been completed in compliance with the approved plans.
 - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
 - 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

Prepared by:

Brian Will

441-6362, bwill@lincoln.ne.gov

Planner

August 4, 2004

Use Permit #133

APPLICANTS/

CONTACTS:

Brian D. Carstens
Brian D. Carstens and Associates
601 Old Cheney Road - Suite C
Lincoln, NE 68512
(402) 434-2424

DaNay Kalkowski
Seacrest and Kalkowski
1111 Lincoln Mall
Lincoln, NE 68508
(402) 435-6000

OWNERS:

Stockwell Properties L.L.C.
300 N. 44th Street - Suite 100
Lincoln, NE 68503
(402) 467-1234

City of Lincoln
555 south 10th Street
Lincoln, NE 68508

R.C. Krueger Development Company
2929 Pine Lake Road - Suite C
Lincoln, NE 68516
(402) 423-7377

**ANNEXATION NO. 01008,
CHANGE OF ZONE NO. 3419
and
USE PERMIT NO. 133**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 18, 2004

Members present: Marvin, Pearson, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand; Larson absent.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; approval of the change of zone; and conditional approval of the use permit.

Ex Parte Communications: Marvin stated that he attended the West "A" Neighborhood Association meeting where a presentation on this project was made.

Brian Will of Planning staff submitted a letter in opposition.

Proponents

1. DaNay Kalkowski appeared on behalf of **Stockwell Properties, LLC**, the owners of the southeast corner. Brian Carstens represents the plan for the northeast corner.

A portion of this property is currently zoned B-1 and the remainder R-3. The northeast and southwest corners of the intersection are also zoned B-1. Late in 1999 and early 2000, the city instituted a zoning action to change these corners. Back then, the billboard became a big issue and the B-1 allows billboards by right. It was found that these B-1 areas were in the Capitol View corridor so the then Planning Director initiated action to change from B-1 to B-2. In order to make B-2 work, it was necessary to change the configuration of the zoning and expand it on the southeast corner. There have been several revisions to the site plan over the time since 2000 and lengthy discussions, primarily about infrastructure financing. Back in November of 2001, this project was on the Planning Commission agenda but, due to conditions and disagreements over infrastructure payments, it was placed on pending.

The change of zone and use permit on the southeast corner include 5 acres. A small perimeter area around the site is park land on the south and on the east. The southeast corner is proposed to have 26,400 sq. ft. of commercial retail uses, and they are showing a convenience store and car wash. The site is separated from West Van Dorn by a large wetland area so the closest uses are set back over 180' from West Van Dorn. The owner is granting additional right-of-way for South Coddington and West Van Dorn for public way corridors and future trail on the east side of Coddington;

Kalkowski submitted proposed amendments to the conditions of approval, which are all clarification of agreements with staff.

- Delete Condition #1.1.3 to keep the parking in the front yard.
- Strike “South Coddington Avenue” from Condition #1.1.6.
- Revise Condition #1.1.8

~~No signs in the front yard.~~ Remove sign envelopes and revise Note 26 to state “All signs shall be in compliance with Chapter 27.69 of the LMC, except signage may be located more than 30 feet from pad site buildings.”

- Add language to Condition #2.4 to allow parking in the front yard.
- Add language to Condition #3.2: “... except sidewalks along South Coddington Avenue and West Van Dorn Street, provided the owner has contributed an amount equivalent to the cost of installing said sidewalks along South Coddington Avenue and West Van Dorn Street to the City.”
- Add language to Condition #3.2 regarding street tree provisions that go into the subdivision agreement at time of final plat: “...except street trees along south Coddington Avenue and West Van Dorn Street, provided the owner has contributed an amount equivalent to the cost of installing said street trees along South Coddington Avenue and West Van Dorn Street to the City.”

The ultimate roadway right-of-way will be substantially larger than the existing rural right-of-way. The large tree masses on Coddington and West Van Dorn will be lost due to the infrastructure improvements. This project includes significant landscaping along the south side of the site to screen the park use to the south.

The applicant did make a presentation to West A Neighborhood Association and have met with the neighbors in the past.

Kalkowski requested that the Commission approve the staff recommendation, with the proposed amendments.

Marvin inquired as to how this relates to the items that are currently on the pending list. Kalkowski stated that the pending items will ultimately be withdrawn.

Marvin inquired as to the anticipated use of the large footprint. Kalkowski stated that it would be general retail uses, probably a strip center with combination of office and retail uses.

Carroll asked for an explanation of putting up the money now for the sidewalks and street trees. Kalkowski stated that typically, the developer would have to post an escrow indicating that they will build the sidewalks and put in the street trees. In this situation, these two streets are not shown in the CIP so we don't know when the ultimate grading will be done. We looked at putting sidewalks ahead of the construction of those streets, but it is not very economically feasible because of the big grade differential between the rural roadway and the lowness of the site. At the same time that the arterial road is constructed on South Coddington, Parks & Recreation would construct the trail.

Pearson inquired whether these are natural wetlands on the site. Kalkowski concurred that to be true. Pearson then asked far it is to the closest roadway or building from the wetlands. **J.D. Burt of Design Associates** did not have a dimension, but there is some grading that is going on in a non-wetland area to elevate the site. The green area between the back of the convenience store in the wetland would be the 3-to-1 slope. The westerly portion is a detention cell. It is probably 30'-35' foot from the wetland to the convenience store.

Carlson inquired about the sign package. Kalkowski explained that the applicant is asking that the signs be allowed to be located more than 30' from the building and staff is in support. The applicant had also requested that some of the building identification signs be allowed to be in the front yard. Planning is not supporting that until we come in with a more complete package. The sign envelope was taken out of the front yard and the signage will be done within the zoning requirements or they will come back with a waiver request. B-2 does allow center identification signs to be within the front yard setback.

Marvin believes there is some land swapping with Parks involved. Kalkowski indicated that Parks has submitted an application to surplus property on the east side between this property and S.W. 19th Street. In exchange, this applicant is going to construct S.W. 19th Street as a public street at this applicant's cost and that will provide a nice public entrance into the park. It will cost more to put the road in than the value of the strip of land.

Carroll believes that the State has first right of refusal on the real estate coming from the City.

Pearson inquired as to how much of the land is in the floodplain. Staff indicated that the land is not in the floodplain. There is a wetland but no floodplain.

2. Brian Carstens appeared on behalf of **Krueger Development**, the owner and developer on the north side of West Van Dorn Street. Krueger is proposing four small office buildings of about 3,400 sq. ft. each, one story in height, limited to office or medical type use. He is also proposing a 6' high fence along the north property line as well as additional landscaping with private driveway. The driveway and street pattern line up across West Van Dorn. Carstens agreed with the amendments to the conditions of approval proposed by Kalkowski.

Opposition

1. Lynn Darling testified in opposition on behalf of a number of the neighbors that met with Mr. Linscott several years ago, when Linscott said the only plans are for the quiet, small architecture office building. That space is going to degrade the whole neighborhood. It will be another one of those cheap, eyesore strip malls. We keep talking about quality of life and beauty of our city and there is no way this is going to add anything to anything except more traffic along West Van Dorn. It will totally negate the tranquility of the bike path. The east road is a problem. The amount of water that comes down through there can be very extensive. She would hope that they have allowed for a lot of water to pass under that road because it will happen and it could easily wash and cause all kinds of trouble. The developer's definition of landscape is very broad, maybe two or three trees. This place could turn into nothing more than bright lights, more beer offered for sale and a real eyesore in a very, very lovely place. Stop this development. This will degrade the neighborhood.

Staff questions

Pearson referred to the southeast corner of the intersection that shows the pond. The site plan calls it an outlot - common space for parking and vegetation. Are they going to fill the pond with parking? Carstens stated that the developer will be limited to what is shown on the site plan. The parking as it is shown is also on the same outlot as the detention facility and the wetland. The pad sites where the buildings are located are Lot 1, Lot 2 and Lot 3 - everything else is within an outlot, so that language is descriptive of what is going to be in the outlot.

Carlson recalled the history of the site and inquired at what point we have public ownership to private ownership. Brian Will of Planning staff indicated that this proposal was brought forward because there was concern over the B-1 zoning at this intersection which allowed off-premise signs and billboards. It was thought that B-2 zoning was preferable. The existing zoning pattern dates back many, many years and appears to be very arbitrary. One of the attempts here is to revise that zoning pattern to make it consistent with the ownership and to provide enough area for at least 5 acres on the Linscott site. Another consideration on the City's part dealt with access. The existing driveway to the north had to be respected and the applicant was in position to find additional land to make the driveway line up. This request includes some land from Parks. All property to the south and east is owned by the City. The original B-1 property has been in private ownership.

Will agreed with the applicant's proposed amendments.

Carlson confirmed that the amendments get us sidewalks in the areas to be developed with the exception of the trail in lieu of the sidewalk. Will agreed. The developer will make contribution equivalent to the sidewalks. This will be one of the terms of the annexation agreement – to provide contribution for both sidewalks and street trees.

Marvin understands that the removal of trees on Van Dorn will occur when Van Dorn is widened because they will be in the right-of-way. Or would the commencement of this project cause the removal? Will stated that at the time of widening the street, the trees will be removed. They do not need to be removed as a part of this project, with the exception of those that have to be removed to allow the driveways.

Pearson expressed an environmental concern about protection of the wetlands on the south. Will indicated that the site plan shows the wetlands being protected so there is no conditional requirement. Pearson does not believe the site plans shows it as a designated wetland. Will stated that one of the sheets within the submittal designates the area of the wetland. The reason staff did not add a condition is that it is already shown as being protected on the plans. J.D. Burt added that they have designed this project not to impact the wetlands. The convenience store and northerly retail portion are not affecting the wetlands. Whenever a plan is submitted for plat purposes, the future use must be shown on each outlot. This particular outlot includes parking, wetlands, and detention. Rather than create separate outlots, we left it all in the same outlot because it is a lot easier to deal with.

Marvin asked Lynn Johnson, Director of Parks & Recreation, to share about the surplus of park land. Johnson advised that the Parks Department has been working with this developer for about four years to figure out a solution to the access issue. Public Works has recommended that S.W.

19th Street line up. In about a month, the Planning Commission will review a proposed declaration of surplus property for dedication of the right-of-way associated with this use permit for S.W. 19th Street, and a recommendation to exchange that narrow strip of property between the proposed alignment of S.W. 19th Street and the east boundary of this parcel in exchange for the value of the improvements in the street.

Marvin inquired of Johnson as to whether the City ran into trouble with the state about financing when surplus property. Johnson indicated that the issue is with Game and Parks. There is an outstanding conversion and there was federal land and water money used in the development of Woods Park. There is a process we have to go through to replace that land. That replacement has to be approved by the National Park Service. Because we have an outstanding conversion, they have advised us not to apply for land and water conservation funding. The property which is the subject of this application is not affected by land and water conservation funding.

Carroll referred to the sanitary sewer comments from Public Works. Bartels explained that the sewer will run basically straight south to Van Dorn Street and then west a short distance and then south along S.W. 19th Street. The cost of the sewer will be the developer's cost. At the shallowest point it is about 3' deep to the top of the pipe. The depth going underneath the street would be 8-10 feet, but the bottom of the pipe was going to be above the storm sewer so it is above the natural topography. Without that street crossing there would be no way to get sewer across there.

Response

Kalkowski responded to the testimony in opposition. The site plans shown in 2001 had the same uses. The only thing difference was the access point to the east side. There is drainage that goes across the road and the plan makes provision for that drainage. With regard to landscaping, this plan shows the street trees on Coddington and West Van Dorn; street trees on S.W. 19th Street; screening and landscaping that is required for parking lots; the screening required for different uses on the south side; plus 33 trees and 33 bushes in addition to the minimum requirements.

With regard to the private ownership of B-1 property, DaNay believes that at the time the change of zone was brought forward in 1999, the B-1 and the R-3 surrounding was under private ownership having previously been purchased from the state.

ANNEXATION NO. 01008

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 18, 2004

Sunderman moved approval, subject to an annexation agreement, seconded by Krieser and carried 7-1: Marvin, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand voting 'yes'; Pearson voting 'no'; Larson absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 3419

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 18, 2004

Krieser moved approval, seconded by Sunderman.

Carlson commented that he has found this application frustrating, mostly because it seems like the dye has already been cast on this parcel. B-1 shows up 30 years ago, and the AG predates that 30-40-50 years ago. The dye is probably cast for commercial zoning on this corner, but whether it is appropriate he is not sure. He appreciates the right to develop the property by the owner; it is just frustrating not to see a solution that somehow tends to blend the masses together. He respects the people involved, but in his eye, this is not the perfect solution, but certainly better than B-1 that would allow them to develop right up to the corner. It is less than perfect but probably better than the alternative.

Pearson stated that she is still not ready to vote for less than perfect. She thinks there is a big difference between landscape screening and natural landscaping. The landscaping cannot replace what is there today. She will vote no because the one particular corner is so sensitive and she thinks the environmental opportunities are being wasted. She would like to see some easements in the future so that she can vote to approve.

Motion for approval carried 7-1: Marvin, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand voting 'yes'; Pearson voting 'no'; Larson absent. This is a recommendation to the City Council.

USE PERMIT NO. 133

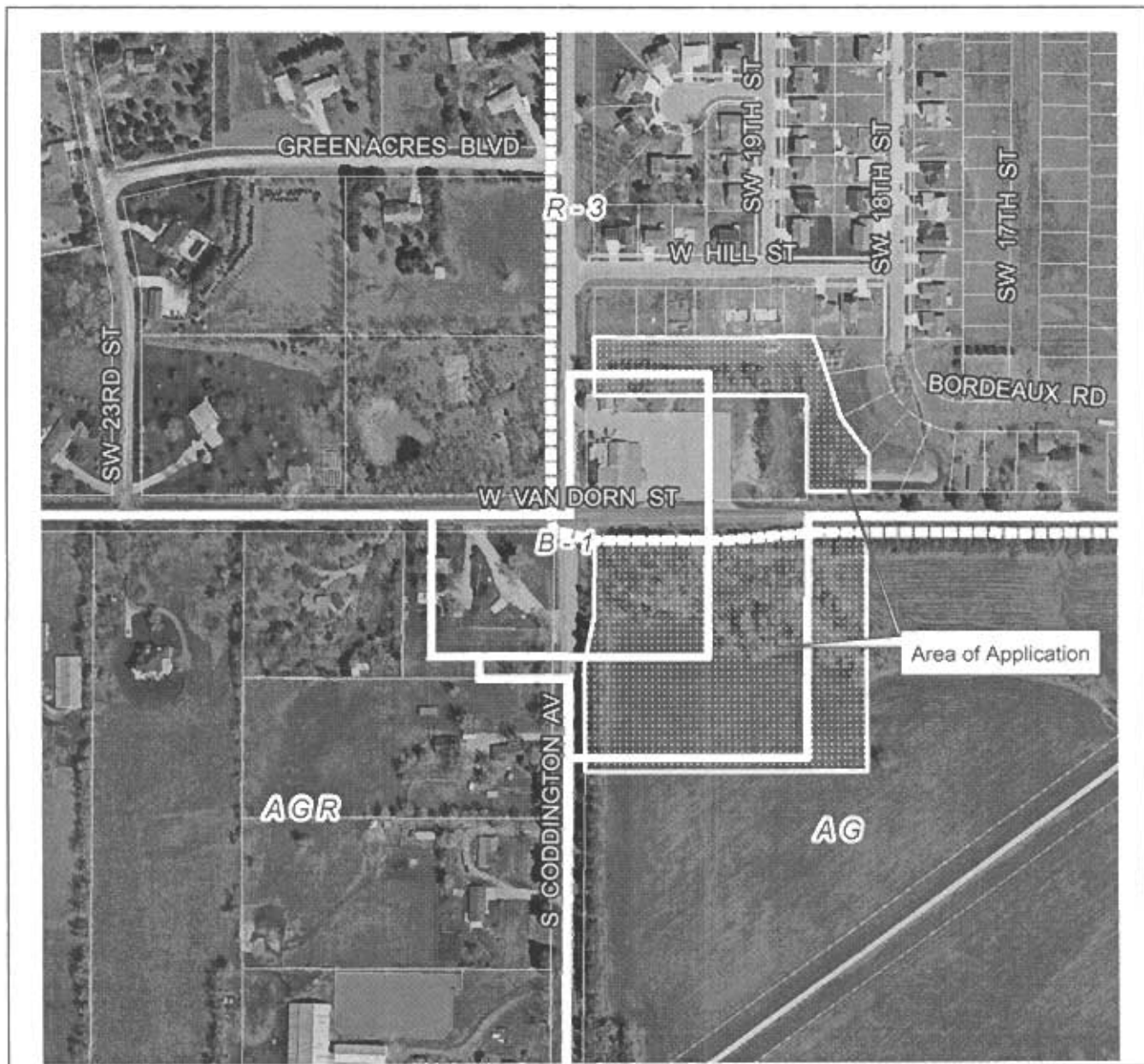
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

August 18, 2004

Krieser moved to approve the staff recommendation of conditional approval, with the amendments proposed by the applicant, seconded by Marvin.

Carlson thinks B-2 is more appropriate and the use permit allows some flexibility. Even with the same comments, he respects the private property owners' right but he believes there are some opportunities. While B-2 gives us the use permit, it just doesn't feel like this is appropriate.

Motion for conditional approval, with amendments, carried 5-3: Krieser, Sunderman, Carroll, Taylor and Bills-Strand voting 'yes'; Marvin, Pearson and Carlson voting 'no'; Larson absent. This is a recommendation to the City Council.



2002 aerial

Use Permit #133 Coddington & Van Dorn

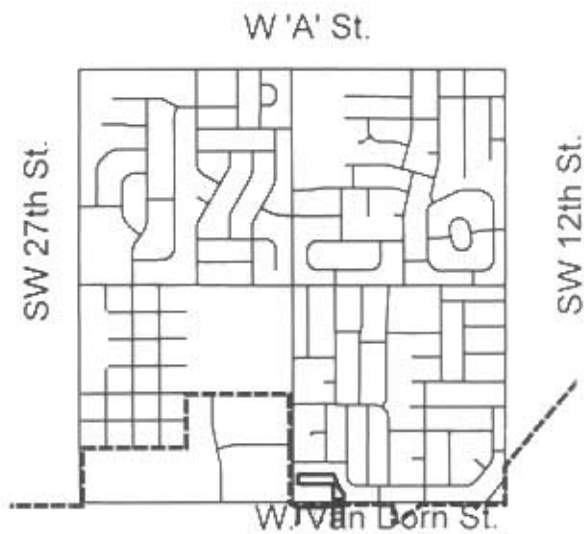
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-7	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 33 T10N R6E



Zoning Jurisdiction Lines
City Limit Jurisdiction



CODDINGTON AND VAN DORN
LEGAL DESCRIPTION

A PORTION OF LOT 40

LOCATED IN THE NORTHEAST QUARTER OF SECTION 4,
TOWNSHIP 9 NORTH, RANGE 6 EAST OF THE 6TH P.M., LANCASTER COUNTY,
NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER:
THENCE ON THE WEST LINE OF SAID NORTHEAST QUARTER, ON AN ASSUMED
BEARING OF S 00°00'05" W, A DISTANCE OF 50.00 FEET;
THENCE N 89°33'51" E, A DISTANCE OF 300.00 FEET,
THENCE N 84°42'54" E, A DISTANCE OF 187.30 FEET TO THE POINT OF BEGINNING:

THENCE CONTINUING N 84°42'54" E, A DISTANCE OF 13.81 FEET,
THENCE N 89°33'51" E, A DISTANCE OF 104.66 FEET,
THENCE S 00°26'09" E, A DISTANCE OF 478.49 FEET,
THENCE S 89°33'51" W, A DISTANCE OF 575.56 FEET,
THENCE N 00°00'05" E, A DISTANCE OF 25.00 FEET,
THENCE N 89°33'51" E, A DISTANCE OF 453.51 FEET,
THENCE N 00°00'05" E, A DISTANCE OF 452.34 FEET TO THE POINT OF BEGINNING.
SAID TRACT CONTAINING AN AREA OF 1.581 ACRES, MORE OR LESS.

RECEIVED

JUL 22 2004

RECEIVED
JUL 22 2004
COUNTY CLERK
LANCASTER COUNTY, NEBRASKA

39 622

W. VAN DORN STREET

202.44.

—

—

—

1

16

EXISTING
SAN
EASE

APPROVED
E'S

ICE
PLAT

444

—

—

1

11

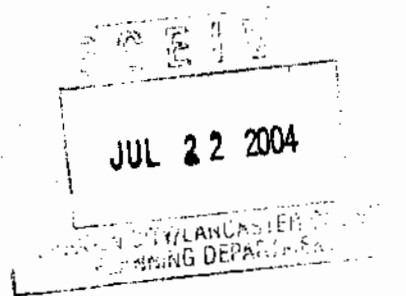
100

**Design
Associates** of Lincoln, Inc.

Pershing Square
1609 'N' Street
Lincoln, NE 68508
Phone: (402) 474-3000 • Fax: (402) 474-4045

July 21, 2004

Marvin Krout
Lincoln/Lancaster County
Planning Department
555 South 10th Street
Lincoln, Nebraska 68508



RE: Use Permit #133
West Van Dorn Plaza
Coddington and West Van Dorn

Mr. Krout,

Subsequent to re-submittal of revised plans for West Van Dorn Plaza, meetings were held with staff to address issues resultant from plan revisions requested by city staff. We are re-submitting plans once again with additional revisions. A summary of the additional plan revisions follows:

1. The dedication of additional right-of-way along West Van Dorn Street and South Coddington Avenue has been revised to provide 65', as measured from each respective centerline. The additional 15' of right-of-way along Coddington will cause the parking located west of the south building to be located in the required front yard setback. A waiver is requested to allow parking to be located within the front yard setback.
2. The access to West Van Dorn Street has been revised to include dedication of right-of-way and construction of a public street (Southwest 19th Street) that will provide access and frontage for the adjacent city park, as well as the proposed B-2 development. The developer has agreed to construct Southwest 19th Street in exchange for the Parks Department's dedication of right-of-way and transfer of ownership of approximately 10,400 square feet of property located west of Southwest 19th Street to the developer. This transfer of ownership to the developer is necessary to accommodate access needs and front yard setback requirements for the proposed development. A waiver is requested to allow parking to be located within the front yard setback along the west side of Southwest 19th Street.
3. The east/west driving aisle that accesses Coddington Avenue is now proposed as a common access easement/public utility easement rather than a private roadway, as previously shown. A public water main is shown in this 30' wide public utility easement.
4. The plan includes notations reflecting agreements with staff regarding installation of permanent street paving and sidewalks. These improvements will now be installed by the city with financial considerations by the developer being included as part of the required

annexation agreement. A waiver of these improvements is requested. Notations are also shown on the use permit acknowledging the need of annexation prior to extension of city utilities to the site.

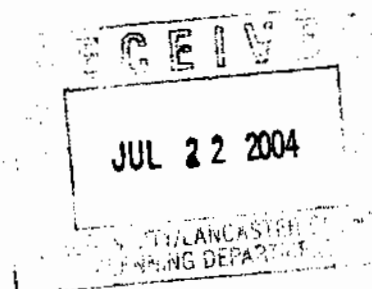
5. The site plan and landscaping plan include revisions.
6. The site and landscape plans are intended to serve as preliminary plat documents. We are requesting a waiver to the preliminary plat process requirements.
7. A waiver of street trees is requested due the large number of existing trees located along the South Coddington and West Van Dorn frontages.
8. A waiver of Design Standards, Chapter 3.5, Section 7.6 is requested to reduce open space areas, mall and around proposed buildings. This wavier is requested due to the large open space and preservation of the existing wetlands located in the northwest portion of the site.
9. The site plan includes lot lines along the limits of building envelopes to allow future sale of pad sites and/or individual buildings. A waiver of internal setbacks is requested to reduce internal setbacks to zero.
10. Signage is proposed along the site's frontage along West Van Dorn, South Coddington and Southwest 19th Street. Signage is proposed in excess of 30' from pad site buildings and within front yard setback areas. Waivers are being requested to allow placement of signs for pad site buildings in excess of 30' from the pad site buildings and within front yard setback areas.

Please advise if additional revisions are required.

Sincerely,



JD. Burt
For the firm

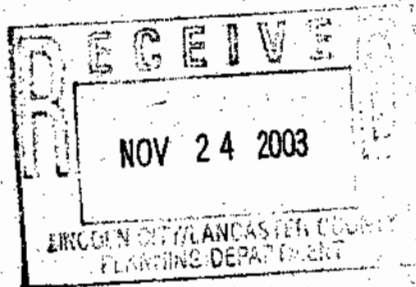




BRIAN D. CARSTENS AND ASSOCIATES
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

November 24, 2003

Marvin Krout
Director of Planning
City of Lincoln
555 South 10th Street
Lincoln, NE 68508



RE: LEE'S PLACE
USE PERMIT #133

Dear Mr. Krout,

This letter is in response to the corrections requested by the Planning and Public Works Departments from the November 6th meeting.

- 1) The private water service line has been revised since the future water line in West Van Dorn Street is a 30".
- 2) The private sanitary service has remained the same as submitted previously.
- 3) The storm sewer shown at the west end of the project has been revised to show existing grades and storm sewer in the area.
- 4) The requested waivers have been expanded to include the following:
 1. Preliminary Plat procedures.
 2. Rear yard setback from 50.00 feet to 25.00 feet.
 3. Front yard setback from 50.00 feet to 25.00 feet.
 4. Permanent pavement along South Coddington Avenue and West Van Dorn Street.
 5. Internal lot setbacks for Lots 1, 2, 3 & 4.
 6. Requirement that all lots have frontage and access to a public street or private roadway.
 7. Minimum lot frontage requirement to allow a ground sign along West Van Dorn Street.

If you have any questions please give us a call.

Sincerely,

Brian D. Carstens

cc: Rick Krueger

Enclosed: 16 copies of sheets 1 & 2 of 5
6 copies of sheets 3, 4, & 5 of 5

M e m o r a n d u m

To: Brian Will, Planning Dept.
From: Dennis Bartels, Engineering Services
Subject: Use Permit #133 - West Van Dorn Plaza
Date: August 10, 2004
cc: Randy Hoskins

Engineering Services has reviewed West Van Dorn Plaza at the southeast corner of West Van Dorn and Coddington Avenue and has the following comments:

1. Water - The proposed public water system shown should be revised. 8" water mains are required, per design standards, for commercial development.
2. Sanitary Sewer - The sanitary sewer shown is less than 4' deep (slightly in excess of 3'). The grading plan and street grade should be revised to provide a minimum of 4' of cover to the top of pipe.
3. Drainage - 100 year flow depths and headwater have not been shown for the drainage ditch through this site. Complete information should be shown of the assumptions used to do the calculations for the flow thru this site. The 50 year discharge is shown, but assumptions shown to calculate it are not.
4. Streets - Sign envelopes and trees are shown in the sidewalk sight distance triangles for sidewalks along Van Dorn and Coddington. Van Dorn between West A and Coddington is shown in the proposed CIP for 2009-2010 funding for construction. Depending upon design, the construction of the intersection may require the grading of the full right-of-way on the legs of this intersection and thru the frontage of this project and allow for construction of the sidewalks. Signs should not be located where they do not meet sight distance requirements for the ultimate cross-section.

Sidewalks are required along Southwest 19th Street since it is shown as a public street. None are shown on the plans.

Previous reviews required temporary widening to provide temporary widening of Coddington and Van Dorn to provide left turn access into the proposed entrances. None is shown for Coddington at Southwest 19th Street. The plans must be revised to show the widening. The widening is temporary and thus the development is liable for impact fees.

The Coddington driveway is shown to drain into the site. This is contract to sidewalk grade requirements.

MOTION TO AMEND

I hereby move to amend the Conditions recommended by the Lincoln City/Lancaster County Planning Staff Report for Use Permit #133 to read as follows:

CONDITIONS:

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
 - 1.1 Revise the site plan to show:
 - 1.1.1 All required street trees including along Southwest 19th Street.
 - 1.1.2 Add a general note that states "ALL REQUIRED LANDSCAPING FOR INDIVIDUAL LOTS WILL BE REVIEWED AT TIME OF BUILDING PERMITS. ALL LANDSCAPING WILL BE PROVIDED IN COMPLIANCE WITH CITY OF LINCOLN DESIGN STANDARDS."
 - ~~1.1.3 Parking relocated out the front yard.~~
 - 1.1.4 Show the bike trail along South Coddington Avenue.
 - 1.1.5 Add a general note stating "The grant of an avigation and noise easement to the Lincoln Airport Authority is a condition of approval for this use permit as all or part of the land is located within the Airport Environs Noise District and potentially subjects the land to aircraft noise levels high enough to annoy uses of the property and interfere with its unrestricted use."
 - 1.1.6 Show sidewalks along ~~South Coddington Avenue~~, West Van Dorn Street, and Southwest 19th Street.
 - 1.1.7 Show the future sidewalk connection to the Bison Trail extended to the south boundary of the use permit.
 - 1.1.8 ~~No signs in the front yard.~~ Remove sign envelopes and revise Note 26 to state "All signs shall be in compliance with Chapter 27.69 of the L.M.C., except signage may be located more than 30 feet from pad site buildings.
 - 1.1.9 All required landscaping per the Design Standards.
 - 1.2 A revised water plan must be submitted and approved by Public Works.

- 1.3 Provide utility easements per the LES 8/2/04 review.
- 1.4 Make corrections per the Public Works and Utilities review.
2. The City Council approves associated request:
 - 2.1 Annexation #01008
 - 2.2 Change of Zone #3419
 - 2.3 Declaration of Surplus property for a portion of Lot 40.
 - 2.4 A modification to the requirements of the land subdivision and zoning ordinance to waive the preliminary plat process, front and rear setbacks from 50' to 25' for that portion north of West Van Dorn Street, frontage to a street or private roadway, minimum frontage for a ground sign, and a sign located more than 30' from a building, and parking in the front yard.

General:

3. Final Plats will be approved by the Planning Director after:
 - 3.1 You have completed or posted a surety to guarantee the completion of the private roadway improvements, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainage way improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs.
 - 3.2 The owner signs a subdivision agreement that requires the owner:
 - to complete the street paving of Southwest 19th Street within two (2) years following the approval of this final plat.
 - to complete the installation of sidewalks within four (4) years following the approval of this final plat, except sidewalks along South Coddington Avenue and West Van Dorn Street, provided the owner has contributed an amount equivalent to the cost of installing said sidewalks along South Coddington Avenue and West Van Dorn Street to the City to utilize at the time the City constructs South Coddington Avenue and West Van Dorn Street to urban standards.
 - to complete the public water distribution system within two (2) years following the approval of this final plat.
 - to complete the public wastewater collection system within two (2) years following the approval of this final plat.

to complete the enclosed public drainage facilities within two (2) years following the approval of this final plat.

to complete the enclosed private drainage facilities within two (2) years following the approval of this final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat.

to complete the installation of public street lights within two (2) years following the approval of this final plat.

to complete the planting of the street trees within four (4) years following the approval of this final plat.

to complete the planting of the landscape screen two (2) years following the approval of this final plat.

to complete the installation of the street name signs within two (2) years following the approval of this final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

To complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed methods to temporarily stabilize all graded land for approval.

to complete the public and private improvements shown on Use Permit #133.

to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

to continuously and regularly maintain the landscape screens.

to submit to the lot buyers a copy of the soil analysis.

to pay all design, engineering, labor, material, inspection, and other improvement costs except paving, curb and gutter in South Coddington Avenue and West Van Dorn Street.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to protect the trees that are indicated to remain during construction and development.

to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.

to relinquish the right of direct vehicular access from West Van Dorn Street, South Coddington Avenue, and Southwest 19th Street except as shown on Use Permit #133.

to inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an aviation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels high enough which may affect users of the property and interfere with its unrestricted use.

Standard:

4. The following conditions are applicable to all requests:
 - 4.1 Before occupying any buildings all development and construction shall have been completed in compliance with the approved plans.
 - 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established property owners association approved by the City Attorney.
 - 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant

Requested by: SEACREST & KALKOWSKI, P.C.

(p.177 - Public Hearing - 8/18/04)



Doug Bauch
<djbxr2@yahoo.com>
08/17/2004 10:56 AM

To: plan@ci.lincoln.ne.us
cc:
Subject: Annex #01008, Change of ZOne #3419 and Use permit 133

Brian Will is the project planner on this.

I have briefly reviewed your analysis of the proposals. Obviously, I don't understand all the terms, know the overall fit, etc. However, I wish to share my thoughts, some of which you have addressed already.

In May of 03, I moved to 1530 Bordeaux Road. Prior to that, I lived at 1901 West Peach for 11 years and know this area well. I have a number of concerns about this proposal.

- 1) The addition of Roper Elementary, the Russ's Market strip mall, Villa Van Dorn and Lee's place have greatly increased traffic in the area with no improvements to Coddington or West Van Dorn. This proposal will increase that much more. I see the widening plans, yet still concerned.
- 2) When Roper was built, the West A neighborhood association was 'stuck' with doing the sidewalks. Either labor, materials or both. We have the same potential issue here.
- 3) I read that the county sold much of the property in question on the SE corner of West Van Dorn and Coddington to the city for a park. I do not know the exact area. They have erected a building and some other improvements this year which resulted in a loss of many mature pine trees. With the additional vehicle and pedestrian traffic this park will create, I am concerned about safety of the additional traffic created by this proposal. I am in favor of the park, we need more green space and with Pioneer's nearby and the Bison trail, it seems like a good fit.
- 4) This proposal will remove more mature pine trees along a historic and traditional route to Pioneers Park and replace it with unsightly office and/or retail buildings. I don't think this fits the area.
- 5) I see there will be an easement for the Bison Trail. However, I see this as an issue anyway. Again, more bikes, cars, and pedestrians creating safety issues. Many people from my neighborhood cross West Van Dorn at SW 15th to access the Bison and it's less than safe to do so. This will all increase if this proposal is approved. There are no shoulders, sidewalks or trails for us to use along West Van Dorn or much of Coddington to access Bison in a safer manner. Curious how the widening of West Van Dorn will effect the already poor Bison crossing of the railroad tracks too, it takes you very close to the street currently.
- 6) I suspect Lee's will eventually sell out. This would be a much better location for this proposed project. I recommend the developers seek this property. It's a Lincoln icon, but it's likely only a matter of time before it's sold. If it sells after this project is approved, the business(es) replacing it could increase a variety of issues.

7) Environmental impact of street widening, development, run off, additional litter, etc. This area is a slice of the country that is easily accessible by Lincoln's citizen. To destroy that and negatively affect the environment is a great loss for all.

8) I feel that approval of this proposal will open up more development in the area encroaching on the two correctional facilities and Pioneer's Park, which is undesirable. Granted, my housing development was once farmland and beautiful trees, had a nursery, etc. I was less than pleased when they began stripping it all out 3+ years ago. I did not express my concerns back then.

9) This proposal may negatively affect the property values in the immediate area due to the host of issues it creates. This would effect 100's of homeowners when they sell. It could also effect the tax revenue.

Thank you for the opportunity to share my concerns. I am unable to attend the meeting itself and trust you and your team will consider what others have shared and do the right thing.

Doug Bauch
1530 Bordeaux Rd
438-1058

Do you Yahoo!?
New and Improved Yahoo! Mail - Send 10MB messages!